

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CHERI LABLANCHE,

PLAINTIFF,

V.

NATIONAL BOARD OF MEDICAL
EXAMINERS – (NBME), FEDERATION
OF STATE MEDICAL BOARDS –
(FSMB), EDUCATIONAL COMMISSION
FOR FOREIGN MEDICAL GRADUATES
– (ECFMG)

DEFENDANTS.

CIVIL ACTION NO. 4:13-CV-00204

DEFENDANTS' ORIGINAL ANSWER

Defendants National Board of Medical Examiners (“NBME”), Federation of State Medical Boards (“FSMB”), and Educational Commission for Foreign Medical Graduates (“ECFMG”) (collectively, “Defendants”) file this Original Answer to Plaintiff’s Original Petition for Injunctive Relief of Medical Licensure Exam Equity & Reasonable Accommodation [sic] for Paper Base Testing Due to Computer Test Disability (the “Complaint”)¹, and state as follows:

I. ANSWER

1. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in section 1 of the Complaint.

2. Defendants admit the allegations contained in the first, second, and third sentences of section 2 of the Complaint. Defendants admit the allegations contained in the fourth sentence of section 2 of the Complaint. Defendants deny the allegations contained in the fifth sentence of section 2 of the Complaint, and specifically deny that paper-based administration of

¹ See Docket No. 1, 4:13-cv-204.

the U.S. Medical Licensing Examination (“USMLE”) is a “national norm.” Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the sixth sentence of section 2 of the Complaint.

3. Defendants deny the allegations contained in the first sentence of section 3 of the Complaint, but admit that Defendants’ records indicate that Plaintiff failed Step 1 of the USMLE in 2005 and in 2007. Defendants deny the allegations contained in the second sentence of section 3 of the Complaint that attribute Plaintiff’s failure of the USMLE to the administration of a computer-based examination, and further deny that Defendants have repeatedly denied Plaintiff’s request for a paper-based examination. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the second sentence of section 3 of the Complaint that relate to Plaintiff’s alleged disability.

4. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in section 4 of the Complaint.

5. Defendants deny the allegations contained in the first sentence of section 5 of the Complaint.

II. AFFIRMATIVE DEFENSES

Plaintiff’s Complaint fails to state a claim upon which relief can be granted.

Unclean hands. Plaintiff seeks judicial intervention when, based upon information and belief, Plaintiff has not requested that Defendants provide her paper-based testing of the USMLE.

Failure to exhaust administrative remedies. Plaintiff seeks judicial intervention when, based upon information and belief, Plaintiff has not requested that Defendants provide her paper-based testing of the USMLE.

III. PRAYER

WHEREFORE, Defendants pray that Plaintiff take nothing by reason of this suit against it and that all injunctive relief be denied. Defendants further pray for such other and further relief as it may be justly entitled.

Respectfully submitted,

FULBRIGHT & JAWORSKI L.L.P.

By: /s/ Alaina King Benford

Alaina King Benford
Attorney-In-Charge
State Bar No. 24027288
Federal I.D. No. 26994
Peter C. Tipps
State Bar No. 24070748
Federal I.D. No. 1070319
Fulbright Tower
1301 McKinney, Suite 5100
Houston, TX 77010-3095
Telephone: (713) 651-5151
Facsimile: (713) 651-5246

**Counsel for Defendant National Board of
Medical Examiners, Federation of State
Medical Boards, and Educational Commission
for Foreign Medical Graduates**

CERTIFICATE OF SERVICE

I hereby certify that on the September 17, 2013, a true and correct copy of the above and foregoing Defendants' Original Answer was filed using the Court's Electronic Filing System and that service on known Filing Users, including Plaintiff noted below, will be accomplished through certified mail and/or electronic transmission.

Cheri LaBlanche
12806 Southspring Drive
Houston, Texas 77047
713-733-9777

By: /s/ Peter C. Tipps
Peter C. Tipps